



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बुधवार, 9 जुलाई, 1975/18 आषाढ़, 1897

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATION

Simla-2, the 8th July, 1975

No. LLR-E(9)7/75.—The following Ordinances promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II section 1, are hereby republished in the Himachal Pradesh Government Rajpatra for the information of general public:—

1. The Maintenance of Internal Security (Amendment) Ordinance, 1975 (No. 4 of 1975).
2. The Defence of India (Amendment) Ordinance, 1975 (No. 5 of 1975).
3. The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1975 (No. 6 of 1975).

M. C. PADAM,
Under Secretary (Judicial).

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th June, 1975/Asadha 8, 1897 (Saka)

**THE MAINTENANCE OF INTERNAL SECURITY
(AMENDMENT) ORDINANCE, 1975**

No. 4 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance further to amend the Maintenance of Internal Security Act, 1971.

WHEREAS a grave emergency exists whereby the security of India is threatened by external aggression and internal disturbance;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title
and com-
mencement.

1. (1) This Ordinance may be called the Maintenance of Internal Security (Amendment) Ordinance, 1975.

(2) It shall come into force at once.

Act 26 of
1971 to be
temporarily
amended.

2. During the period of operation of this Ordinance, the Maintenance of Internal Security Act, 1971 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3, 4 and 5.

Amendment
of section
14.

3. In section 14 of the principal Act, for sub-section (2) the following sub-section shall be substituted, namely:—

“(2) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person”.

Amend-
ment of sec-
tion 15.

4. In section 15 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Notwithstanding anything contained in any other law and save as otherwise provided in this section, no person against whom a detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise.”.

Insertion
of new sec-
tion 16A.

5. After section 16 of the principal Act, the following section shall be inserted, namely:—

Special
provisions
for dealing
with emer-
gency.

“16A. (1) Notwithstanding anything contained in this Act or any rules of natural justice, the provisions of this section shall have effect during the period of operation of the Proclamation of Emergency issued under clause (1) of Article 352 of the Constitution on the 3rd day of December, 1971, or the Proclamation of Emergency issued under that clause on the 25th day of June, 1975, or a period of twelve months from the 25th day of June, 1975, whichever period is the shortest.

(2) The case of every person against whom an order of detention was made on or after the 25th day of June, 1975, but before the commencement of the Maintenance of Internal Security (Amendment) Ordinance, 1975, shall, unless such person is sooner released from detention, be reviewed within fifteen days from such commencement by the appropriate Government for the purpose of determining whether the detention of such person under this Act is necessary for dealing effectively with the emergency in respect of which the Proclamations referred to in sub-section (1) have been issued (hereinafter in this section referred to as the emergency) and if, on such review, the appropriate Government is satisfied that it is necessary to retain such person for effectively dealing with the emergency, that Government may make a declaration to that effect and communicate a copy of the declaration to the person concerned.

(3) When making an order of detention under this Act against any person after the commencement of the Maintenance of Internal Security (Amendment) Ordinance, 1975, the Central Government or the State Government or, as the case may be, the officer making the order of detention shall consider whether the detention of such person under this Act is necessary for dealing effectively with the emergency and if, on such consideration, the Central Government, or, as the case may be, the State Government or the officer is satisfied that it is necessary to detain such person for effectively dealing with the emergency, that Government or officer may make a declaration to that effect and communicate a copy of the declaration to the person concerned:

Provided that where such declaration is made by an officer, it shall be reviewed by the State Government to which such officer is subordinate within fifteen days from the date of making of the declaration and such declaration shall cease to have effect unless it is confirmed by the State Government, after such review, within the said period of fifteen days.

(4) The question whether the detention of any person in respect of whom a declaration has been made under sub-section (2) or sub-section (3) continues to be necessary for effectively dealing with the emergency shall be reconsidered by the appropriate Government within four months from the date of such declaration and thereafter at intervals not exceeding four months, and if, on such reconsideration, it appears to the appropriate Government that the detention of the person is no longer necessary for effectively dealing with the emergency, that Government may revoke the declaration.

(5) In making any review, consideration or reconsideration under sub-section (2) (3) or (4), the appropriate Government or officer may, if such Government or officer considers it to be against the public interest to do otherwise, act on the basis of the information and materials in its or his possession without disclosing the facts or giving an opportunity of making a representation to the person concerned.

(6) It shall not be necessary—

(a) to disclose to any person detained under a detention order to which the provisions of sub-section (2) apply, the grounds on which the order has been made during the period within which his case may be reviewed under that sub-section and where, on such review, a declaration has been made in respect of such person under that sub-section, also during the period when such declaration is in force;

(b) to disclose to any person detained under a detention order to which the provisions of sub-section (3) apply, the grounds on which the order has been made during the period the declaration made in respect of such person under that sub-section is in force, and, accordingly, such periods shall not be taken into account for the purposes of section 8.

(7) In the case of every person detained under a detention order to which the provisions of sub-section (2) or sub-section (3) apply, and in respect of whom a declaration has been made thereunder, the period during which such declaration is in force shall not be taken into account for the purpose of computing the periods mentioned in section 10 or section 11."

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secretary to the Government of India.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 30th June, 1975/Asāḍha 9, 1897 (Saka)

THE DEFENCE OF INDIA (AMENDMENT) ORDINANCE, 1975
No. 5 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to amend the Defence of India Act, 1971

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title
and dura-
tion.

1. (1) This Ordinance may be called the Defence of India (Amendment) Ordinance, 1975.

(2) The amendments made to the defence of India Act, 1971 (hereinafter referred to as the principal Act), by the provisions of this Ordinance shall remain in force during the period of operation of the Proclamation of Emergency issued under clause (1) of Article 352 of the Constitution on the 25th day of June, 1975, and for a period of six months thereafter, but their expiry under the operation of this section shall not affect—

- (a) the previous operation of, or anything duly done or suffered under, the principal Act as amended by this Ordinance or any rule made thereunder or any order made under any such rule, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the principal Act as amended by this Ordinance or any rule made thereunder or any order made under any such rule, or

- (c) any penalty, forfeiture or punishment incurred in respect of any offence under the principal Act as amended by this Ordinance or any contravention of any rule made thereunder or of any order made under any such rule, or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said amendments had not expired.

2. In the long title to the principal Act, after the words "civil defence", the words "and internal security" shall be inserted.

Amendment of long title.

3. In the preamble to the principal Act,—

Amendment of preamble.

(a) in the first paragraph,—

(i) for the word "Proclamation", the word "Proclamations" shall be substituted;

(ii) after the words "by external aggression", the words "and by internal disturbance" shall be inserted;

(b) in the second paragraph, after the words "and civil defence", the words "and internal security" shall be inserted.

4. In section 1 of the principal Act,—

Amendment of section 1.

(a) in sub-section (1) for the words "the Defence of India", the words "the Defence and Internal Security of India" shall be substituted;

(b) in sub-section (3), for the words "shall remain in force during the period of operation of the Proclamation of Emergency", the following shall be substituted, namely:—

"shall, subject to the provisions of the Defence of India (Amendment) Ordinance, 1975, remain in force during the period of operation of the Proclamation of Emergency issued on the 3rd day of December, 1971".

5. In section 2 of the principal Act, in clause (g), after the words, figures and letters "the 3rd day of December, 1971", the words, figures and letters "or the Proclamation issued under that clause on the 25th day of June 1975" shall be inserted.

Amendment of section 2.

6. In section 3 of the principal Act,—

Amendment of section 3.

(a) in sub-section (1), after the words "civil defence", the words "the internal security," shall be inserted;

(b) in sub-section (2),—

(i) in clause (4),—

(A) in the opening paragraph, for the words "or civil defence", the words "civil defence or internal security" shall be substituted;

(B) in sub-clause (e), after the words "civil defence", the words "internal security" shall be inserted.

(ii) in sub-clause (a) of clause (7), sub-clause (j) of clause (10) and and clause (32), after the words "civil defence", the words "the internal security," shall be inserted;

- (iii) in clause (9), after the words any scheme of defence", the words "or any scheme for the prevention of internal disturbance" shall be inserted;
- (iv) in clause (21), (25) and (27), after the words "civil defence", the words "or for internal security" shall be inserted;
- (v) in clause (40), after the words "civil defence", the words "or the internal security" shall be inserted;
- (vi) in clause (46), after the words "civil defence or", the words "to the internal security or" shall be inserted;
- (c) in sub-section (3), in clause (viii), after the words "civil defence", the words "or the internal security" shall be inserted.

Amend-
ment of
section 6.

7. In section 6 of the principal Act in sub-clause (a) of clause (1) and in sub-clauses (a) and (d) of clause (6), for the words "Defence of India Act", the words "Defence and Internal Security of India Act" shall be substituted.

Amend-
ment of
section 16.

8. In sub-section (1) of section 16 of the principal Act, after the words "civil defence," the words "the internal security," shall be inserted.

Amend-
ment of
section 23.

9. In sub-section (1) of section 23 of the principal Act, after the words "civil defence," the words "internal security," shall be inserted.

Amend-
ment of
section 38.

10. In section 38 of the principal Act, for the words "and the defence of India and civil defence", the words "the defence of India and civil defence and the internal security" shall be substituted.

FAKHRUDDIN ALI AHMED,
President,

K. K. SUNDARAM,
Secretary to the Government of India.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 1st July, 1975/Asadha 10, 1897 (Saka)

THE CONSERVATION OF FOREIGN EXCHANGE AND PREVEN- TION OF SMUGGLING ACTIVITIES (AMENDMENT) ORDINANCE, 1975

No. 6 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to amend the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

WHEREAS a grave emergency exists whereby the security of India is threatened by external aggression and internal disturbance;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1975.

Short title and commencement.

(2) It shall come into force at once.

2. During the period of operation of this Ordinance, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3, 4 and 5.

Act 52 of 1974 to be temporarily amended.

3. After section 5 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 5A.

“5A. Where a person has been detained in pursuance of an order of detention under sub-section (1) of section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

Grounds of detention severable.

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

- (i) vague,
- (ii) non-existent,
- (iii) not relevant,
- (iv) not connected or not proximately connected with such person, or
- (v) invalid for any other reason whatsoever,

and it is not therefore possible to hold that the Government or officer making such order would have been satisfied as provided in sub-section (1) of section 3 with reference to the remaining ground or grounds and made the order of detention;

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said sub-section (1) after being satisfied as provided in that sub-section with reference to the remaining ground or grounds.”.

4. In section 12 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment of section 12.

“(6) Notwithstanding anything contained in any other law and save as otherwise provided in this section, no person against whom a detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise.”.

5. After section 12 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 12A.

“12A. (1) Notwithstanding anything contained in this Act or any rules of natural justice, the provisions of this section shall have effect during the period of operation of the Proclamation of Emergency issued under clause (1) of article 352 of the Constitution on the 3rd day of December, 1971, or the Proclamation of Emergency issued under that clause on the 25th day of June, 1975, or a period of twelve months from the 25th day of June, 1975, whichever period is the shortest.

Special provisions for dealing with emergency.

(2) When making an order of detention under this Act against any person after the commencement of the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Ordinance, 1975, the Central Government or the State Government or, as the case may be, the officer making the order of detention shall consider whether the detention of such person under this Act is necessary for dealing effectively with the emergency in respect of which the Proclamations referred to in sub-section (1) have been issued (hereafter in this section referred to as the emergency) and if, on such consideration, the Central Government or the State Government or, as the case may be, the officer is satisfied that it is necessary to detain such person for effectively dealing with the emergency, that Government or officer may make a declaration to that effect and communicate a copy of the declaration to the person concerned:

Provided that where such declaration is made by an officer, it shall be reviewed by the appropriate Government within fifteen days from the date of making of the declaration and such declaration shall cease to have effect unless it is confirmed by that Government, after such review, within the said period of fifteen days.

(3) The question whether the detention of any person in respect of whom a declaration has been made under sub-section (2) continues to be necessary for effectively dealing with the emergency shall be reconsidered by the appropriate Government within four months from the date of such declaration and thereafter at intervals not exceeding four months, and if on such reconsideration, it appears to the appropriate Government that the detention of the person is no longer necessary for effectively dealing with the emergency, that Government may revoke the declaration.

(4) In making any consideration review or reconsideration under sub-section (2) or (3), the appropriate Government or officer may, if such Government or officer considers it to be against the public interest to do otherwise, act on the basis of the information and materials in its or his possession without disclosing the facts or giving an opportunity of making a representation to the person concerned.

(5) It shall not be necessary to disclose to any person detained under a detention order to which the provisions of sub-section (2) apply, the grounds on which the order has been made during the period the declaration made in respect of such person under that sub-section is in force, and, accordingly, such period shall not be taken into account for the purposes of sub-section (3) of section 3.

(6) In the case of every person detained under a detention order to which the provisions of sub-section (2) apply, being a person in respect of whom a declaration has been made thereunder, the period during which such declaration is in force shall not be taken into account for the purpose of computing—

- (i) the periods specified in clauses (d) and (c) of section 8;
- (ii) the periods of "one year" and "five weeks" specified in sub-section (1), the period of "one year" specified in sub-section (2)(i), and the period of "six months" specified in sub-section (3), of section 9.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secretary to the Government of India.